

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DePuy Mitek, Inc.)	
a Massachusetts Corporation)	
)	
Plaintiff.)	
)	
v.)	Civil No. 04-12457 PBS
)	
Arthrex, Inc.)	
a Delaware Corporation, and)	
)	
Pearsalls Ltd.)	
a Private Limited Company)	
of the United Kingdom)	
)	
Defendants.)	

Plaintiff DePuy Mitek's Motion *In Limine* (No. 5) To Preclude Arthrex And Pearsalls From Making Irrelevant and Prejudicial Remarks About Mitek

Plaintiff, DePuy Mitek, Inc. (“Mitek”) moves *in limine* to preclude Defendants, Arthrex, Inc. and Pearsalls, Ltd. (collectively “Arthrex”) from making Irrelevant and Prejudicial Remarks about Mitek. It appears from Arthrex’s pretrial exchanges (*e.g.*, deposition designations, exhibit list), briefs, and comments at hearings that intends to litter the record with derogatory missives about: (1) when and how Mitek learned about the Hunter 446 Patent; (2) the Hunter 446 Patent being a paper patent because Mitek does not sell a product covered by the patent; and (3) Mitek’s development of its competing Orthocord product. None of these issues is relevant to the infringement issue, and it appears that Arthrex wants to raise them to deflect attention from the infringement issue and to portray Mitek in a negative light. Accordingly, Arthrex should be precluded from presenting evidence and argument on these matters under FED. R. EVID. 401 and 402.

Dated: July 13, 2007

DEPUY MITEK, INC.,
By its attorneys,

/s/ Michael J. Bonella
Dianne B. Elderkin
Lynn A. Malinoski
Michael J. Bonella
Erich M. Falke
WOODCOCK WASHBURN LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 568-3100

Daniel J. Gleason (BBO #194900)
Heather Repicky (BBO #663347)
Nutter McClennen & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA. 02210-2604
617-439-2000